



---

**Comptroller General  
of the United States**

Washington, D.C. 20548

---

## **Decision**

**Matter of:** Am-Pro Protective Agency Inc.; MVM, Inc.--Reconsideration

**File:** B-271385.9

**Date:** February 5, 1997

---

John E. McCarthy, Jr. Esq., James J. Regan, Esq., and Paul Shnitzer, Esq., Crowell & Moring, for the protester.

Kathleen D. Martin, Esq., Department of State, for the agency.

Katherine I. Riback, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### **DIGEST**

Request for reconsideration is denied where requesting party raises untimely arguments and otherwise does not demonstrate that the decision contains errors of fact or law.

---

### **DECISION**

Am-Pro Protective Agency, Inc. requests reconsideration of our decision, Am-Pro Protective Agency, Inc.; MVM, Inc., B-271385.4 et al., Sept. 23, 1996, 96-2 CPD ¶ 192, denying the protests against the award of a contract for guard services to Inter-Con Security Systems, Inc. under request for proposals (RFP) No. S-OPRAQ-94-R-0434, issued by the Department of State. In its request for reconsideration, Am-Pro argues that our Office improperly denied MVM's argument that Inter-Con's proposal was unbalanced.

We deny the request for reconsideration.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.14(a) (1996); Richards Painting Co.--Recon., B-232678.2, May 19, 1989, 89-1 CPD ¶ 481.

In our denial of the protests, we determined that the awardee's proposal was not impermissibly unbalanced. With respect to a requirements contract, the determination of whether there is material unbalancing usually turns on the accuracy of the solicitation's estimates of the agency's anticipated needs. In response to a question posed by our Office during the development of the protest, the State Department stated that the solicitation's estimates reflected the actual

projection of the agency's needs at the time that the RFP was prepared. In its reconsideration request, the protester asserts that in order to adequately respond to our question, the agency was required to certify that the solicitation's estimates reflected the government's actual current needs when, in fact, we desired that the agency state whether the solicitation's requirements reflected the agency's needs.

In the decision, in determining that there was no credible basis to call into question the reliability or validity of the agency's estimates, we noted that the agency had confirmed that its estimates for the labor hours were based on the current year requirements of the incumbent (Am-Pro) at the time that the RFP was issued. Further, since nothing in the record called into question the essential accuracy of these estimates, there was no reasonable basis for viewing the awardee's proposal as representing other than the lowest cost to the government. Am-Pro's reconsideration request simply speculates that our question to the agency suggested that there was a subsequent change in the agency's actual needs, which is simply not so.

Additionally, Am-Pro questions our determination that its objection to the solicitation estimates was untimely. In our decision, while we addressed all of MVM's unbalancing arguments on the merits, we held that Am-Pro, based on its experience as the incumbent contractor, knew or should have known of the defects it alleged were in the government estimate before it submitted its proposal. Am-Pro's current position that it only became aware of problems with the solicitation estimates when it received the agency's September 3, 1996, response to our question is simply inaccurate. In fact, Am-Pro expressed its concern regarding the solicitation's estimates in a July 29 submission in which it stated that, "[t]here is no assurance that the number of hours actually utilized will be the same or will be in the same ratio as the hours in the [RFP's] schedule." Since this aspect of Am-Pro's protest was properly dismissed as untimely because it was first raised after the closing time for receipt of proposals, there is no basis for its reconsideration now. ASI Personnel Servs., Inc.--Recon., B-258537.8, Oct. 31, 1995, 95-2 CPD ¶ 198.

The request for reconsideration is denied.

Comptroller General  
of the United States